IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

Tr.P(C).No. 270 of 2006()

FOR TRANSFER OP.719/2006 of FAMILY COURT, ALAPPUZHATO FAMILY COURT, THIRUVANANTHAPURAM FOR TRIAL AND DISPOSAL OF THE MATTER WITH O.P.410/05 PENDING BEFORE FAMILY COURT, THIRUVANANTHAPURAM.

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PETITIONER

AMMINI S., D/O. KUTTAPPAN,
THERIVILA, THOZHICHAL, VIZHINJAM,
VENGANOOR VILLAGE, THIRUVANANTHAPURAM.

BY ADV. SRI.HARI.S.NAIR

RESPONDENTS:

SIBIMON P.C., S/O. CHACKO,
PUTHENPURAYIL, CHEMPUMPURAM,
CHAMPAKULAM, ALAPPUZHA.

BY ADV. SRI.ROY CHACKO

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

T.R.P.(C)270/06

ORDER ON I.A. 3176/06 IN TR.P.(C)270/06

DISMISSED

15.12.2006. SD/-/ M.SASIDHARAN NAMBIAR, JUDGE.

M.SASIDHARAN NAMBIAR,J.

Tr.P.(C)NO.270 OF 2006

DATED THIS THE 15th DAY OF DECEMBER, 2006

ORDER

Petitioner is the wife. Respondent is the husband. Petitioner filed O.P.410/05 for divorce before Family Court, Thiruvananthapuram. Respondent filed O.P.719/06 for restitution of conjugal rights before Family Court, Alappuzha. This petition is filed by the wife to get the case filed by respondent transferred to Thiruvananthapuram.

2. According to petitioner both the cases are to be heard by the same Court and she had filed the case earlier to the case filed by respondent and she belongs to Thiruvananthapuram and in such circumstances, the case pending before Family Court, Alappuzha is to be transferred to Thiruvananthapuram.

3. Learned Counsel appearing for respondent vehemently opposed the application contending that no part of the cause of action arose within the jurisdiction of Thiruvananthapuram Family Court and it is more difficult for respondent to contest the case at Thiruvananthapuram and Family Court, Thiruvananthapuram has no jurisdiction to dispose the divorce case and therefore the case cannot be transferred.

4. On hearing learned counsel appearing for petitioner and respondent, it is clear that both the cases are to be tried by the same Court. Wife had filed petition for divorce first and husband had filed petition for restitution of conjugal rights later. Considering the difficulties expressed by the parties, the difficulty expressed by wife out weighs that of the husband. Hence petition is allowed.

O.P.719/06 on the file of Family Court, Alappuzha is withdrawn and transferred to Family court, Thiruvananthapuram for disposal in accordance with law. The question of jurisdiction raised by respondent in O.P.410/05 is to be decided by Family Court, Thiruvananthapuram.

M.SASIDHARAN NAMBIAR,JUDGE

Acd